REMARKS

Claims 22-27, 36-41 and 49-52 were rejected in the Office Action mailed on April 25, 2008. Applicants respectfully request reconsideration.

Claims 22-25, 36-39 and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brizzolara (US 5,236,355) in view of Kozam (US 4,575,375) and Firth et al. (RE 37,439). Applicants respectfully traverse.

Brizzolara discloses an apparatus for the local administration of a therapeutic agent to a periodontal pocket, where the therapeutic agent is in the form of dry particles. Applicants respectfully submit that Brizzolara fails to show or suggest a tip configured for being deformed, or a body portion of a barrel including flexible flanges for forming a temporary locking engagement with at least a portion of an external force applying member.

Kozam discloses an apparatus for irrigating and/or treating a periodontal pocket where an individual may dispense an irrigant or a medication that includes an active medication and a water-soluble carrying agent into the periodontal pocket. Preferably the medication is in the form of a gel. The apparatus includes a housing, a tube containing the gel within the housing, a nozzle for delivering the medication from the tube contained within the housing and, in essence, a means for connecting the nozzle to the housing, i.e. a coupling member. Two different embodiments of such an apparatus are disclosed in Figures 1 and 4, respectively.

In Figure 1 and as described at Col. 4, lines 23-38, the apparatus includes a housing which contains the medication and the force applying member contained therein, a nozzle for delivering the medication, and a coupling member for connecting the nozzle to the housing, each independent of the other. The coupling member includes a groove (52), not a flange, while the nozzle includes a flange (60) for removable attachment of the nozzle to the coupling member, not the force applying member. In Figure 4 and as described at col. 7, lines 10-35, the nozzle and coupling member are molded as a single unit from a rigid plastic.

Applicants respectfully submit that Kozam fails to disclose or suggest that one could or should utilize a flexible flange construction as claimed by Applicants to attach the barrel portion containing the medication directly to the force applying member. In fact, Applicants respectfully submit that Kozam clearly teaches away from such a construction and that such a construction would render Kozam inoperable for its intended use. The coupling member in both embodiments of Kozam is mounted to the dispenser device, i.e. the force applying member, by

screw attachment of internal-threading in the coupling member to the threaded end of the tube contained within the housing. The coupling member must be rigid, not flexible, in order to be threaded internally and further in order to provide a secure fit to the tube. As such, Applicants respectfully submit that Kozam cannot teach an apparatus having a body portion of a barrel including a flexible flange for providing a temporary locking engagement with at least a portion of a force applying member.

Based on the foregoing, Applicants respectfully submit that neither Brizzolara or Kozam, each of which discloses an apparatus for administration of a medicament to a periodontal pocket, alone or in combination, suggest that one should or could provide a body portion of a barrel with flexible flanges for providing a temporary locking engagement with at least a portion of a force applying member. Applicants respectfully submit that Brizzolara is silent as to any such structure and thus cannot provide any motivation or suggestion as to such a structure, while Kozam clearly teaches away from such a structure.

Firth discloses a disposable, self-shielding aspirating syringe that is not intended for reuse. The device is first operated to draw body fluid into a cartridge within the device, i.e. by aspiration, and then operated to dispense medication contained in the cartridge (Col. 9, ll 9-15). As such, Applicants respectfully submit that the device of Firth is not relevant or similar to and operates differently from the devices disclosed in Brizzolara and Kozam, which only dispense a medicament to a periodontal pocket.

The device of Firth includes a first assembly that includes a body, protector case, needle and needle cap, and a second assembly including a plug and a plunger. Firth does not disclose a device for administration of a medicament to a periodontal pocket. As shown in Figures 1, 2, 3, 4b, 4c, 4d, 8a, 8b and 8d, the body of the device includes a finger-grip collar 3 that includes pockets 11 forming notches 12. As shown in Figures 1, 9a, 9b, 9c, 9d, 11a and 11b, plug 45 includes locking fingers 51. Pockets 11 are shaped to receive the ends of locking fingers 51 (Col. 4, 42-45) when the second assembly is assembled to the first assembly. The locking fingers are molded to the face of the plug (Col. 7, line 16). Upon operation of the device, as the locking fingers move forward, the front ends of the locking fingers push against the rear surface of the cartridge containing the medicament, thereby forcing the cartridge forward over the rear end of the needle, which then penetrates the standard rubber seal on the forward end of the cartridge (Col. 8, line 56 – Col. 9, line 3). As such, it is respectfully submitted that the locking fingers

serve a dual purpose in Firth; one to facilitate connection of the plug to the body and, very importantly, to force the cartridge such that the needle penetrates the seal of the cartridge, thereby permitting dispensing of the medicament.

While the Office Action indicates that mere reversal of elements involves only routine skill in the art, Applicants respectfully disagree with this characterization as it regards Firth. The device of Firth involves a complex structure with respect to the body and the case, as shown in Figures 4c, 4d, 5b, 5c, 5d and 8a, for example. Applicants respectfully submit that modification of this complex structure, particularly considering the required dual purpose interaction of the locking fingers of the plug with the structure of the body, case and cartridge assembly, is beyond mere ordinary skill in the art. In addition, Applicants respectfully submit that Firth clearly teaches away and, in fact, precludes reversal of the location of the locking fingers from the plug to the body of the device. As noted above, the locking fingers of Firth being located in the plug is essential for facilitating dispensing of the medicament from the device. Applicants respectfully submit that to reverse the location of the locking fingers in the body of the device, as suggested in the Office Action, would require impermissible hindsight selection against the teachings of Firth, thereby rendering Firth inoperable for its intended purpose.

Based on the foregoing, Applicants respectfully submit that claims 22-25, 36-39 and 49-52 are patentable under 35 U.S.C. 103(a) over Brizzolara in view of Kozam and Firth and request that the rejection be withdrawn.

Claims 26, 27, 40 and 41 are rejected under 35 U.S.C. 103(a) over Brizzolara in view of Kozam and Firth and further in view of Discko, Jr. (US 5,129,825). Applicants respectfully traverse.

Initially, Applicants reiterate each argument with respect to the combination of Brizzolara and Kozam and Firth as it relates to claims 26, 27, 40 and 41 and respectfully submit that claims 26, 27, 40 and 41 are patentable on that basis alone. As Discko fails to cure the deficiencies of Brizzola, Kozam and Firth, Applicants respectfully submit that claims 26, 27, 40 and 41 are patentable under 35 U.S.C. 103(a) over Brizzolara in view of Kozam and Firth and further in view of Discko and request that the rejection be withdrawn.

Based on all of the foregoing, Applicants respectfully submit that claims 22-26, 36-41 and 49-52 are patentable and earnestly request a notice of allowance to that affect.

Respectfully submitted,

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